

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W12j.**

Filed: 9/16/04
49th Day: N/A
180th Day: N/A
Staff: AJP-LB
Staff Report: 9/21/04
Hearing Date: 10/13-15/04

STAFF REPORT: DE NOVO

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-PPL-99-225

APPLICANT: Mount Holyoke Homes, Ltd. et. al

PROJECT LOCATION: 425 Mount Holyoke Avenue, Pacific Palisades

PROJECT DESCRIPTION: Subdivision of a vacant 41,880 sq. ft. parcel into three residential lots consisting of approximately 17,794 square feet, 12,515 square feet and 11,571 square feet.

Summary of Staff Recommendation

In June 2003, the Commission denied a prior version of the proposed project due to public visual impacts and geologic safety concerns. The applicant sued the Commission, and the parties eventually entered into a settlement. The currently proposed subdivision has been modified from the initial submittal to address Commission concerns raised during the June, 2003 hearing. Consistent with the terms of the settlement agreement, the court entered an order remanding the matter to the Commission for further proceedings, including a new public hearing on the revised Coastal Development Permit application.

The proposed project raises Coastal Act issues regarding visual and geologic hazard impacts. To mitigate the impacts staff recommends approval of the proposed project with special conditions agreed to by the applicant and essentially identical to those submitted by the applicant as part of the settlement agreement with the Commission. These special conditions include: 1) restricting future development to a structural and deck stringline; 2) creation of a view corridor; 3) open space restriction, 4) restriction on exterior color of all future development, 5) floor area restriction; 6) assumption of risk; 7) acknowledgement by applicant that permit is only for subdivision of land and any future development will require a separate coastal development permit; 8) future improvements restriction; 9) local government approval conflict; and 10) recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

SUBSTANTIVE FILE DOCUMENTS:

1. Parcel Map No 6810
2. CDP No. 90-052
3. Mitigated Negative Declaration No. 90-0843-PM (CDP)
4. Geologic Report No. 4-798-1 by Sousa and Associates, dated 22 Sept 1994
5. Geologic Addendum Report No. 1 to Geologic Report No. 4-798-1 by Sousa and Associates, dated 27 Oct 1994
6. Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 4 Oct 1994
7. Addendum I to Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 2 Nov 1994
8. Additional Stability Analysis for Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 5 Dec 1994
9. Amended Foundation recommendations and Slope Stability, for Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 27 April 1995
10. Addendum II. to Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 7 Aug 1995
11. Addendum III. to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 19 Sept 1995
12. Addendum IV. to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 7 Nov 1995
13. Addendum V. to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 19 Apr 1996
14. Amendment for Addendum V. to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 8 May1996
15. Revised Amendment for Addendum V. to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 8 May1996

Staff Note:

The proposed development is within the coastal zone area of the City of Los Angeles. Section 30600(b) of the Coastal Act allows local government to assume permit authority prior to certification of a local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles chose to issue its own coastal development permits pursuant to this section.

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that any development that receives a local coastal development permit also obtain a second such permit from the Coastal Commission. Section 30601 requires a second coastal development permit from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area

(known as the Single Permit Jurisdiction area), the local agency's (City of Los Angeles) coastal development permit is the only coastal development permit required.

The development approved by the City is within the single permit area. The City approved a coastal development permit No. 90-052. The City's permit was appealed to the Commission by Ms. Barbara Schelbert c/o Robert J. Glushon, Esq., of the law firm of Luna and Glushon. In May 2000, the Commission found the appeal to raise a substantial issue with respect to the project's conformance with the policies in Chapter 3 of the Coastal Act based on visual impacts and geologic stability. Subsequently, the proposed project was scheduled for De Novo hearing on June 11, 2003. On the De Novo hearing the Commission denied the proposed project due to public visual impacts and geologic safety concerns. The applicant filed a lawsuit against the Commission seeking a writ of mandate, declaratory relief, and damages for inverse condemnation. The two parties entered into a settlement agreement to remand the revised project back to the Commission for a new public hearing on the Coastal Development Permit application.

The proposed subdivision has been modified from the initial submittal that was denied by the Commission. The currently proposed project incorporates a wider view corridor along the northeast portion of the site; restricts building heights within the view corridor to protect the views; limits development down the bluff to a stringline drawn from adjacent structures; prohibits any future development beyond or downslope of the stringline and within the view corridor; and limits the height of landscaping and fencing within the view corridor.

**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION
FOR A-5-PPL-99-225:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #A-5-PPL-99-225 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government

having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. String Line Setback for Future Development

As shown on the "Illustrative Site Plan, 425 Mt. Holyoke Ave.," dated December, 2003, and attached hereto as Exhibit No. 5:

- A.** The habitable portions of any dwelling units to be constructed or maintained on Lots A, B and C shall not encroach downslope beyond a line drawn from the nearest adjacent downslope comers of the habitable portions of the adjacent existing homes at 437 and 365 Mount Holyoke Avenue.

- B.** Decks constructed or maintained on Lots A, B and C shall not encroach downslope beyond a line drawn from the nearest adjacent downslope corners of the existing decks at 437 and 365 Mount Holyoke Avenue.

2. View Corridor

A view corridor shall be established as shown on the "Site Plan Photo Survey @ 5 ft. Below Sidewalk Elevation 425 Mt. Holyoke Avenue" dated March, 2004 and attached hereto as Exhibit No. 6. The view corridor shall provide views from Mt. Holyoke Avenue to the coastline and ocean by restricting development in the area depicted on Exhibit No. 6 which begins as the northeasterly 30 feet of Lot A along Mount Holyoke Avenue and expands as it extends in a generally westward direction to reach a total width of 158 feet along the westerly boundary of Lots A, B, and part of C. The view corridor shall be established and implemented by the following means:

A. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT ("NOI") FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, two formal legal descriptions and graphic depictions, for the following areas:

- (1) The footprint of the view corridor described in the above-referenced documents; and
- (2) The footprint of the triangular area that is shown on Exhibit No. 6 as the northwesterly corner of the primary structure to be built on Lot A (hereinafter referred to as the "lower building envelope").

B. In the portion of the view corridor that lies between Mt. Holyoke Avenue and the stringline described in Special Condition No. 1, no building, structure, or landscaping shall be maintained or constructed -except for the following:

- (1) Within the lower building envelope, structures may be allowed provided that neither the roof nor any deck shall extend upwards above a horizontal plane measured as being five (5) feet below the level of the existing finished public sidewalk as measured at the northeast corner of Lot A.
- (2) Outside the lower building envelope, a fence located along the front lot line of Lot A on Mt. Holyoke Avenue may be allowed provided that: (i) the fence does not block or diminish public views through and over the view corridor as defined above; (ii) the fence does not exceed a height of 42 inches as measured from the finished surface of the adjacent public sidewalk, and (iii) the fence is constructed of a material that affords views through the fence (e.g., wrought iron) and is maintained in a manner so as to preserve such views.
- (3) Landscaping may be allowed provided that any landscaping that is within twenty linear feet of the sidewalk of Mt. Holyoke Avenue shall not exceed two feet in height as

measured from the existing grade, and any landscaping in the remainder of the area restricted in this subsection B shall not exceed five (5) feet in height as measured from existing grade.

C. In the portion of the view corridor downslope from the stringline described in special condition 1, landscaping may be allowed provided that it does not block views of the beach or upcoast as seen by an observer standing on the sidewalk of Mt. Holyoke Avenue in front of Lot A.

3. Open Space

A. No development, as defined section 30106 of the Coastal Act, shall occur within the area identified as "open space" on the attached Exhibit No. 7, except for:

(1) Vegetation removal for fire management and removal of non-native vegetation, if authorized by a coastal development permit or an amendment to this coastal development permit; and

(2) Planting of native vegetation, if authorized by a coastal development permit or an amendment to this coastal development permit.

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this special condition, as generally described above.

4. Exterior Colors for Future Structures

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant (permittee) shall submit, for the review and written approval of the Executive Director, a written agreement pursuant to which the exterior of all future structures on Lots A, B, and C will be painted or otherwise finished, and maintained throughout the life of the structure, in earth tone colors that are compatible with colors of the adjacent hillside.

5. Floor Area

Any single dwelling unit to be constructed or maintained on the subject property shall not exceed 3,500 square feet of floor area as defined in the Los Angeles Municipal Code.

6. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges that the site may be subject to hazards from landslide, bluff retreat, erosion, and earth movement, and agrees (i) to assume the risks to the applicant and the property that is the subject of this permit of injury and

damage from such hazards in connection with this permitted development; (ii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents and employees for injury or damage from such hazards; and (iii) to indemnify and hold harmless the Commission, its officers, agents and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

7. Development Approved by this Permit

With the acceptance of this permit, when issued, the applicant (permittee) acknowledges that this permit is for the division of land as shown in the attached Exhibit No 5. Construction of residences, grading, installation of piles, landscaping, or vegetation restoration is not part of this permit and will require a separate coastal development permit.

8. Future Development Restriction

Any future development at the subject site shall be consistent with and restricted by the conditions of Permit No.A-5-PPL-99-225. Any future coastal development permit that authorizes construction of a single family residence on a lot within the subject site ("Single Family Home Coastal Development Permit") shall include a "future development restriction" condition, as authorized by Public Resources Code section 30610(a) and section 13250(b)(6) of Title 14 of the California Code of Regulations, indicating that any later-proposed improvement to the permitted residence(s) that constitutes development under the Coastal Act will require an amendment to the Single Family Home Coastal Development Permit or a separate coastal development permit, because such improvements may have adverse environmental effects.

9. Local Government Approval

This action has no effect on conditions imposed by a local government agency pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of Coastal Development Permit A-5-PPL-99-225 shall prevail.

10. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (i) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (ii) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the subject property. The deed restriction shall

include a legal description of the entire parcels or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing to subdivide a vacant 41,880 sq. ft. parcel into three residential lots consisting of approximately 17,794 square feet, 12,515 square feet, and 11,571 square feet (see Exhibit No. 5). The three proposed lots will have street frontage of approximately 97 feet, 68 feet, and 65 feet, with a maximum depth ranging from 175 feet to 182 feet.

The original proposal that was previously denied by the Commission included lot sizes of approximately 14,385 square feet, 13,939 square feet and 13,559 square feet with street frontage of approximately 78 feet, 73 feet, and 80 feet (see Exhibit No. 4). The current proposal reduces the size of two of the lots by reducing the lot widths by 11 and 12 feet, and increases the lot width of the third lot from 78 feet to 95 feet to allow the incorporation of a continuous 30 foot wide view corridor along the frontage street in the northeast corner of the parcel (see Exhibit No. 6).

The proposed view corridor will extend west from the northeast corner of the parcel and widen to 159 feet along the lower portion of the parcel. Within this view corridor views of the western slope of Temescal Canyon will be available along with views of the beach and ocean horizon. Development within the proposed view corridor will be limited to extend no higher than 5 feet below the existing sidewalk elevation (285') and future landscaping and fencing will also be limited in height to protect the views through the corridor. The height restrictions within the view corridor are to protect existing coastal views from Mt. Holyoke Avenue. The original proposal did not include a view corridor but incorporated a minimum sideyard setback of 15 feet (7.5 feet from property line) between structures, as compared to the standard 5 foot setback.

Topographically, the site consists of a narrow near level pad, varying from approximately 5'-25' wide, adjacent to the street. The lot then descends westerly at approximately 35 degrees. The overall topographic relief is about 117 feet. Below the lot, a portion of the hillside continues to slope to Temescal Park with an overall relief of 175 feet below Mt. Holyoke Avenue.

The site is located on the western side of Mount Holyoke Avenue, along the eastern rim of Temescal Canyon, in the Pacific Palisades area, a planning subarea of the City of Los

Angeles. The site is approximately 1,500 feet, or just over a quarter mile, inland of the intersection of Temescal Canyon Road and Pacific Coast Highway. The site is vacant and is vegetated with predominantly exotic vegetation with some native vegetation located in isolated areas. The surrounding area is developed with one and two story single-family residences, with bluff top development to the north and south along Mount Holyoke Avenue and Radcliffe Avenue, and on the eastside of Mount Holyoke Avenue and nearby streets. To the south, approximately ¼ mile from the project site is Via de Las Olas Park, a bluff top park, overlooking Pacific Coast Highway and the ocean.

Temescal Canyon is a narrow canyon with a four-lane road running along the bottom of the canyon from Pacific Coast Highway to Sunset Boulevard. A linear landscaped park is improved along the east and west sides of the road.

The proposed project is for the subdivision of land only. A separate coastal development permit or permits will be required for the future construction of the single-family residences.

B. Planning Background

In 1992, the City Council denied a 4-lot subdivision on the subject parcel. Following is a more detailed description as submitted by the City:

After the Council's original denial of Parcel Map LA No. 6810 and Coastal Development Permit No. 90-052 for a 4-lot subdivision on the subject property, the owner filed a lawsuit in the Superior Court challenging that disapproval (Mt. Holyoke Homes Ltd., et. Al. V. City of Los Angeles, et.al., LASC NO. BC060183.) The Superior Court issued a writ of mandate requiring the Council to set aside its decision denying the parcel map and coastal development permit and to reconsider the owner's application. On January 21, 1994, the Council adopted a motion setting aside its previous disapproval and referred the matter back to the Planning and Land Use Management Committee (Committee) for further consideration of the applications. The Committee was then to report back to the Council for its further action.

Subsequently, the Department of Building and Safety, Grading Division (Division) reviewed additional soils and geology reports on the site's topography relative to a 3-lot subdivision. The Division has now released a favorable report on the 3-lot subdivision.

The City's original denial was based on adverse impacts on public views and concerns regarding geologic stability of the lot. The Court overturned the City's denial and found that the City's findings were inadequate to deny the application. The Court found the findings to be conclusory and not supported by substantial evidence. The Court issued a writ of mandate requiring the City to set aside its denial of the parcel map and coastal development permit and reconsider the owner's application. Subsequently, the City conditionally approved

Parcel Map No. 6810 (see Exhibit No. 4) and Coastal Development Permit No. 90-052 for a 3-lot subdivision rather than four lots as originally proposed by the applicant.

C. Description of Local Approval

On April 7, 1999, the City Council approved a coastal development permit ("CDP"), with conditions, and a parcel map with a mitigated negative declaration for a three-lot subdivision. The approvals contained numerous conditions addressing soils/geology and architectural criteria for the design of future homes to be built after the subdivision approval.

The CDP contained conditions addressing architectural design criteria for the homes that included floor area, height limits, and setbacks. The floor area for each residence is limited to 3,500 square feet. The height limit for the future residences is limited to 28 feet within the defined building envelope. Setbacks were required to be fifteen-feet between structures with landscaping and structures within these yard areas limited to a height of 4-feet.

The parcel map also included construction conditions for the three houses as well as soils/geology conditions. The City required caissons and development conditions for future residential development in response to geologic safety and public view issues raised during the approval process for the subdivision. The City's underlying CDP is for a three-lot subdivision only and any proposed residential development would require a separate Coastal Development Permit. Currently, the CDP application before the Commission is a request to create a three-lot subdivision only and not an application to construct homes.

D. Visual Resources

Section 30240 (b), in part states:

(b) Development in areas adjacent to ... parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those ... recreation areas.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The subject parcel is located on the western side of Mount Holyoke Avenue, on a steep hillside bluff overlooking Temescal Canyon. The bottom of the canyon is developed with Temescal Park, a regional linear park that extends along the four-lane Temescal Canyon Road from Pacific Coast Highway to Sunset Boulevard. The park abuts the project site along the western boundary of the parcel and near the bottom of the slope. The project site also provides views of the coastline, ocean horizon and Santa Monica Mountains.

Pursuant to Section 30240(b) of the Coastal Act, development in areas adjacent to parks and recreation areas shall be sited and designed so as not to degrade these areas. Temescal Park is an urban park. Although the slopes are heavily vegetated and may support some native vegetation, the lower flat portion of the park contains ornamental grasses and other non-native plants. The park also provides basketball courts, tennis courts, picnic and barbeque areas. Views from within the park are not of a natural undisturbed setting but consist of a row of houses at the top of the slope with a natural appearing slope below. There are no trails along the bluff within the canyon, and the only views of the beach and ocean are views from down along Temescal Canyon Road.

Development along the western side of Mount Holyoke Avenue is generally located atop the mesa on graded pads, with some homes cantilevered or supported on piles on the upper portion of slope. Because of the lack of a flat level building pad on the project site, the future development of homes on the site will require the homes to cascade, or step down, the slope.

Mount Holyoke Avenue is a local neighborhood street that terminates at Via de Las Olas Park located approximately $\frac{1}{4}$ mile to the south, that overlooks Pacific Coast Highway and the beach. From the project site, along the public sidewalk that traverses the top of the site along Mt. Holyoke, available views are portions of Temescal Park to the west, views of the ocean and coastline to the southwest, and the Santa Monica Mountains to the west and northwest.

The protection of public views as a resource of public importance must be considered as required in Section 30251 of the Coastal Act. According to letters submitted by residents of the area, the public has used this street to view the ocean and coast, and the proposed development, with the future construction of three single-family residences will obscure public views of the coast from the street. Also, when houses are eventually constructed on these lots, they will be visible from the park below, within Temescal Canyon, and from the beach area (Will Rogers State Beach). The amount of visibility from the park and beach will depend on how far the homes are allowed to cascade down the slope and the massing of the structures. Ocean views from Mount Holyoke Avenue may be obstructed once the homes are constructed. Although Mount Holyoke Avenue is not a scenic highway, but a residential street serving mainly the local residents in the area, the site provides public views of the coast and the protection of these views should be considered.

The project site, as well as the surrounding properties, is zoned R-1 which permits a minimum lot area of 5,000 square feet, with a minimum lot width requirement of 50 feet. The surrounding area is fully subdivided and developed with single-family residences. The average lot size along Mount Holyoke Avenue is approximately 11,540 square feet. Adjacent lots to the

south and along the west side of Mount Holyoke Avenue typically have lot widths of 55 feet and lot depths of 175 feet. Smaller lots with lot widths of 50 to 60 feet and lot depths of 110 feet, are located along the east side of Mount Holyoke Avenue. The proposed lots will be between 11,571 square feet and 17,794 square feet in area, with lot widths from 64 feet to 97 feet along Mount Holyoke Avenue. As proposed, the lots will be compatible with lots in the general surrounding area and consistent with the City's lot size and zoning standards. Furthermore, in the City's approval, the City found that the proposed density of the project, as revised from 4 lots to 3 lots, is compatible with the character of the surrounding area.

The proposed property provides approximately 231 feet of frontage along Temescal Canyon's eastern bluff top, which includes Mount Holyoke Avenue and Radcliffe Avenue. This site is one of the last undeveloped parcels along Temescal Canyon's eastern bluff edge. Because of the steepness of the eastern slope of the canyon a number of homes are visible from Temescal Park and the beach area to the southwest. However, the eastern bluff edge of the canyon is developed with over 50 single-family residences, with a number of these residences visible from Temescal Canyon Road and from the beach area, which is over 1,500 feet from the project site. The existing residences on either side of the proposed project site, and the ones located directly behind the project site, on the eastern side of Mount Holyoke Avenue, are also visible from Temescal Canyon Road and beach area.

In the City's local permit action, the City addressed the view issues by reducing the subdivision from four lots to three, limiting the height of the homes over the slope to a maximum of 28 feet, limiting the extension of the homes down the slope, and limiting future homes to a maximum of 3,500 square feet. The City also restricted the siting of any future residences by requiring increased side yard setbacks, modified from the standard of 5 feet to 7.5 feet and required 15 feet along the north and south property line, to break up the massing of the structures and increase public views from Mount Holyoke Avenue. Further, the City limited the distance that any future residences can extend down the slope to minimize the visibility of the structures on the slope from Temescal Park and other public areas. The City limited any future structures to extend no further than 60 feet from the front yard setback of 5 feet from the western edge of the public sidewalk.

Based on the City's 5-foot front yard setback, the 60 foot slope encroachment restriction would allow development to encroach no further than approximately between the 245 foot and 253 foot contour line, as shown on the City approved Preliminary Parcel Map No. 6810 (see Exhibit No. 4). The 60 foot restriction, as originally approved by the City, would allow the structures to extend 5 feet to 20 feet further down slope than the development on the adjoining properties, as compared to using a string line drawn from the adjacent corners of the structures on the adjoining properties. The enclosed habitable structures on the two adjoining properties extend approximately 48 feet and 65 feet from the front property line, to the 267 and 274 foot contour lines, respectively. Drawing a line from the nearest corners of the adjacent developments, the line would limit development on the proposed lots to approximately between the 248 foot and 264 foot contour line on the project site.

The applicant is currently proposing to limit future development to a structure and deck stringline drawn from the nearest adjacent lower corners of the adjacent structures on the adjoining properties, as depicted in Exhibit No. 5. As proposed, by limiting future residential development to a stringline, the amount of massing on the slope face will be minimized, reducing the amount of structure visible from the park and recreation areas, and development will be in line with the adjoining development and will be visually compatible with the surrounding development and character of the area. By limiting development in this manner, the project is made consistent with Coastal Act section 30240(b) and 30251. Special Condition No. 1 ensures that future development will be consistent with a structure and deck stringline. The applicant is also proposing to restrict the area downslope of the stringline as open space and prohibit any future development in the area. Special Condition No. 3 ensures that the area downslope of the stringline, will be restricted as open space so that no future development will encroach beyond the stringline, except for landscaping and vegetation removal for fire clearance (see Exhibit No. 7).

To further reduce the visual impact from public areas, the applicant is also proposing to limit all future dwelling units to 3,500 square feet, as originally required in the City's approval. Along with the stringline restriction, the limitation on square footage will limit the massing of the dwelling units on the hillside and minimize the visual impact from the public areas below the site, making it consistent with Coastal Act section 30240(b) and 30251. As conditioned, Special Condition No. 5 will limit all future residential dwellings to a maximum of 3,500 square feet.

Furthermore, the applicant is also proposing to restrict the exterior color of any structure to earth tone colors that will help blend the development with the surrounding natural area to help further minimize visual impacts from the adjacent park and recreation areas. To ensure that all future homes will comply with the proposed color restriction, Special Condition No. 4 requires that the applicant submit a written agreement indicating that all structures on the three lots will be painted and maintained for the life of the structures in earth tone colors that are compatible with the colors of the surrounding hillside.

Landscaping would also reduce the visual impact of any future development. However, since the homes are not proposed at this time and the actual designs of the homes are not before the Commission, landscaping will be addressed and incorporated into the design once the applicant has applied for a coastal development permit for the homes. Another issue that will be addressed once permits for the construction of dwelling units are applied for is potential impacts of the foundation piles. As stated, to stabilize the development, a foundation design using piles and grade beams was designed to demonstrate that geologically the site could be developed. Based on the pile design, the piles would be constructed below grade with the grade beams hidden from view within the exterior walls of the future residences. With the use of piles for construction on steep hillsides, over time, due to weathering and erosional processes, the piles may become exposed. In past Commission permit action, the Commission has required that in the event piles become exposed the applicant is required to take measures to reduce the visual exposure by such measures as re-grading or landscaping. Since the proposed project only includes the division of the land and no construction at this

time, this issue will be further addressed once permits for the future construction of the residences are sought.

With regards to public view issues from Mount Holyoke Avenue, as originally approved by the City, to address the coastal view impacts from Mount Holyoke Avenue, the City approved subdivision required side yard restrictions wider than the residential minimum standard of 5 feet. The City required sideyard setbacks of 7.5 feet between the three lots, creating a 15 foot spacing between any future buildings. In addition, the City required a sideyard of not less than 15 feet along the southerly and northerly boundaries of the subject property. The sideyard requirements imposed by the City were to address the neighborhood visual issues from Mount Holyoke by requiring wider spacing between the three future dwellings and between the future dwelling and existing single-family developments to the north and south of the project site. Although the side yard requirements create additional spacing between buildings, the spacing does not afford views of the coast since the views preserved by the setbacks would be directly perpendicular, or west, from Mt Holyoke Avenue and the only available views from this direction would be views of the hillside. Views of the coastline and ocean horizon are generally to the southwest and would be blocked by any future buildings.

During the Commission's DeNovo hearing in June, 2003, when this project was initially before the Commission, the Commission was concerned with the potential public view blockage from Mount Holyoke Avenue from the future development of three dwellings on this site. To address the public view issue from Mount Holyoke Avenue, the applicant has redesigned the three lots and is currently proposing to create a view corridor in the northeast portion of the site, extending out over the property in a west and southwest direction (see Exhibit No. 6). To create the view corridor the applicant reduced the width of the two southern most lots (Lots B and C) from approximately 73 feet and 80 feet, to 68 and 65 feet, and enlarged the width of the northern lot (Lot A), from approximately 78 feet to 97 feet, to provide adequate area for a 30 foot wide view corridor in the northeast corner, beginning adjacent to the public sidewalk along Mount Holyoke Avenue and extending out over the northern and western portion of the property to a maximum width of 158 feet along the western property line.

The applicant conducted and submitted a view corridor study, dated March 26, 2004. As part of the study, the applicant erected story poles and lines to depict the location and height of the tentative buildings to determine the views within the corridor. Photographs taken from various locations along the sidewalk within the proposed view corridor were also submitted. During the placement of the poles Commission staff was at the site to observe the potential view impacts that would be associated with residential development of the site. Based on the view study and staff's observations, views offered from this proposed view corridor include the sandy beach area, ocean horizon, and Santa Monica Mountains. The views extend from the beach area at the terminus of Temescal Canyon Road and extend up along the coast. Although views of the entire beach area and ocean horizon within the view corridor will decrease as one moves from north to south along Mount Holyoke Avenue and closer to the tentative future residential building that will be adjacent to the 30 foot wide view corridor, the views within this corridor are more significant than any views that would be provided by increased side yard setbacks (7.5 feet) between future structures.

Based on the view study, to maximize and protect views through the view corridor, height limits within the view corridor were developed by the applicant and staff. As proposed, any portion of the residential structure within the view corridor, as depicted in Exhibit No. 6, would extend no higher than a point measured 5 feet below the elevation of the existing sidewalk. This height restriction would keep all portions of any future residential structure within the view corridor below the sightline from the public sidewalk to the sandy beach to protect the existing views from future development of the site. Furthermore, as proposed, and to further protect the views within the corridor, all fencing along the frontage area, within the view corridor, will be limited to 42 inches in height to allow views over any planned fencing, and any planned fencing will be of an open design to allow views through the fence. Landscaping will also be limited in height within the view corridor to ensure that all plants within the corridor will not block views from along the public sidewalk. All landscaping within the first 20 feet from the sidewalk within the view corridor will be limited to a maximum height of 2 feet. Beyond the first 20 feet, as the property slopes down, landscaping will not exceed 5 feet in height. Because of the distance from the sidewalk and sloping nature of the property, the landscaping restriction will maintain the line of sight and protect coastal views through the view corridor. To ensure that the view corridor will be provided and views are protected through the view corridor, Special Condition No. 2 is necessary. Furthermore, the applicant's proposed open space restriction, Special Condition No. 3, will include the area of the view corridor to ensure that no future development will block views of the beach and ocean through the view corridor. As conditioned by this permit, public view impacts from Mount Holyoke Avenue will be minimized and views of the coast will continue to be provided. By limiting development in this manner, the project is made consistent with Coastal Act section 30251. Furthermore, to ensure that all future development will be consistent with the conditions of this permit and with the Coastal Act, Special Condition No. 8 requires that the future development of single-family residences shall be conditioned such that any improvements to such residences that are proposed subsequently shall themselves require an amendment to the permits for those houses or separate coastal development permits.

To ensure that these conditions continue to apply, even in the event there are conflicts between the local government agency's approval and the Commission's approval of this coastal development permit, Special Condition No. 9 places the applicant on notice that the terms and conditions imposed by this coastal development permit shall prevail in such situations. The applicant shall also record a deed restriction against the property, referencing all of the Special Conditions contained in this staff report (Special Condition No. 10).

As conditioned by this permit, the scenic and visual qualities of the surrounding public areas, such as the beach and recreational park, will not be significantly impacted, and as sited and designed the proposed project will not significantly degrade the area and will be compatible with the surrounding area. Furthermore, public views to the ocean scenic coastal areas from the site will be protected. Therefore, the Commission finds that only as conditioned, will the proposed development be consistent with Sections 30240(b) and 30251 of the Coastal Act.

E. Hazards and Landform Alteration

Section 30251 states in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Section 30253 states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. . .*

The project site consists of a very narrow near-level pad adjacent to Mount Holyoke Avenue with slopes descending to the west. Slope gradients vary from approximately 30 degrees below the street to 40 degrees on the western portion of the site.

The geologic reports prepared for the site state that the site is underlain by bedrock consisting of thin siltstone, shale and sandstone beds. Natural alluvial terrace overlies the bedrock. The reports also indicate that a minor amount of approximately 1.5 to 2.5 feet of fill material was encountered along the eastern portion of the site. It is assumed that the fill was placed during street construction.

According to the reports, the bedrock at the site is dense, continuous, steeply dipping. No pattern of adversely orientated fractures or joints was observed. Furthermore, according to the reports, no ancient or recent bedrock landslides were observed on the property. The Sousa & Associates report (September 22, 1994) states:

Geologic maps by the City of Los Angeles (1964), the Dibblee Geological Foundation (1991), and the U.S. Geological Survey (1973 to 1989 do not depict landslides in the local area that could adversely affect the subject property from a geologic viewpoint. The closest landslide to the subject site is approximately 500 feet to the south which appears to be controlled by the axis of a syncline.

There are no known active faults on the property or the immediate area. The geologic reports conclude that the site is suitable for the proposed project provided the geologic recommendations are incorporated into the design and subsequent construction of the project.

In 1992, when the City originally approved a proposed four-lot subdivision on the subject parcel, the Department of Building and Safety (Grading Division) approved the soils and geology reports. The City's approval was disputed by geotechnical reports from E. D. Michael, an Engineering Geologist, and Douglas E. Moran, an Engineering Geologist and Geotechnical Engineer. Subsequently, the Department of Building and Safety rescinded its prior approval and the City Council denied the project.

Subsequently, in 1992, the applicant filed a lawsuit, challenging the City's decision. In 1993, the Court issued a writ of mandate requiring the City to set aside its denial of the project and reconsider the owner's application. In 1994, the applicant agreed with the City to reduce the proposed number of lots from four to three, and retained a new soils engineer and geologist. New soils and geology reports for the proposed three-lot subdivision were submitted and reviewed by the City. In 1998, the Department of Building and Safety approved the reports. The Department found that a factor of safety of 1.5 could be achieved by installing four rows of soldier piles interconnected with grade beams.

Subsequently, on April 7, 1999, after the report had been reviewed by the City's Engineering Geology Advisory Committee, comprised of three independent professionals in the fields of soils engineering, engineering geology, and geology, the City Council approved the coastal development permit and parcel map for the proposed three-lot subdivision. The approval was based upon the construction of 4 rows of soldier piles (20' apart) interconnected with grade beams in order to bring the safety factor from 1.38 to 1.5 for the site. As designed, graded cut and fill slopes were not proposed, and no retaining walls were planned for the future construction of the residences.

The City of Los Angeles Department of Building and Safety has issued a geotechnical engineering review letter that indicates that the City has reviewed and approved the project's geologic and soils reports and design. The geologic and soils reports conclude that the proposed development is considered feasible from an engineering geologic and soil standpoint and will be safe from landslide, settlement or slippage, provided the recommendations with respect to foundations, drainage and sewage disposal are incorporated into the plans and implemented. Since this permit does not include the construction of residences or foundations these recommended conditions will be incorporated into the design of the single-family homes, or made a condition of the permits for such homes, once the residences are designed and submitted for a coastal development permit.

The Commission's geologist, Dr. Mark Johnsson, reviewed the geology reports for the project and the City's reports, including the report submitted by the opponent's geologists. Dr. Johnsson initially had concerns regarding the stability of the site and the applicant's ability to develop the site in a geologic safe manner. Dr. Johnsson was concerned that the City-approved reports did not demonstrate the stability of the slopes during seismic loading. Accordingly, the applicant was asked to produce additional analyses, and after review of the pseudostatic slope stability analyses by Dr. Johnsson, and review of the structural calculations by the Commission's coastal engineer Lesley Ewing, staff has concluded that the site can be

developed in a geologically safe manner without creating or significantly contributing to erosion or geologic instability.

The project's engineering geologist, Robert Sousa, recently (August 18, 2004) inspected the site and determined that no significant geologic changes were observed and continues to support the recommendations made in the previous geologic reports. This geology update is attached as Exhibit No.9.

The Commission in past coastal development permit actions has required that development be set back as far as is feasible from the bluff edge to minimize any potential erosion risk or geologic hazard. The proposed project lots have approximately 10 to 25 feet of flat area at street level, which makes it infeasible to keep all construction on the flat portion of the lot and away from the bluff face. As conditioned by this permit, to limit development encroachment down the slope no further than a line drawn from the corners of the adjacent existing residences, future down slope encroachment will be minimized and development will be consistent with the surrounding area (Special Condition No. 1).

Furthermore, in previous actions on hillside development in geologically hazardous areas the Commission has found that there are certain risks that can never be entirely eliminated. In addition, the Commission notes that the applicant has no control over off-site or on-site conditions that may change and adversely affect the coastal slope on the property. Therefore, based on the information in the applicant's geologic reports and the City's review, the Commission finds that the proposed project is subject to risk from erosion and/or slope failure (topple) and that the applicant should assume the liability of such risk. Although structural development is not being proposed under this permit application, the applicant is creating two additional lots that can be developed in the future. Therefore, the applicant and any future owner of the properties should be aware of such risks and Special Condition No. 6 is necessary. The assumption of risk, when recorded against the property as part of the deed restriction, will provide notice to all future prospective owners of the site of the nature of the hazards which may exist on the site and which may adversely affect the stability or safety of the proposed development. Furthermore, a future improvements special condition is required to place the applicant and any future buyer of the property on notice that all future development of the site will require a new coastal development permit (Special Condition No. 8). The Commission, therefore, finds that only as conditioned will the proposed development be consistent with Sections 30251 and 30253 of the Coastal Act

F. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

(a) shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

As stated, the subject parcel is located on the western side of Mount Holyoke Avenue, on a steep hillside bluff overlooking Temescal Canyon. The undeveloped parcel consists of a strip, approximately 5-25 feet wide of relatively flat land, and a west-facing slope.

According to the botanical report prepared for the applicant by Anderson Botanical Consulting, dated March 9, 2003, vegetation on the site consists of predominantly of exotic vegetation that is non-native to southern California. Native plants include encelia (*Encelia californica*) California sagebrush (*Artemisia californica*), ashy-leaf buckwheat (*Eriogonum cinereum*), lemonadeberry (*Rhus integrifolia*) and giant wild rye (*Leymus condensatus*). See Vegetation Map, Exhibit No. 8. Remnant native scrub occurs below the property line on the lower slope of Temescal Canyon. None of the species on-site are classified as rare, threatened, endangered or especially valuable by any public agency or the California Naïve Plant Society.

According to the applicant and botanical report the site has historically been cleared of vegetation in compliance with Los Angeles City fire codes. According to a recent survey conducted by the consultant on September 20, 2004, the most significant change noted in vegetation on site was due to annual fire code clearance and seasonal die off.

As shown on the vegetation map, the majority of the native plants are located outside of the planned building area for the three residences. The map shows that giant coreopsis (*Coreopsis gigantea*) and lemonadeberry (*Rhus integrifolia*) in the vicinity of the future building areas. The botanical report recommends that the native species be preserved on site and any plants that may be disturbed due to future construction or fire clearance requirements, should be relocated. The report also recommends that once the homes are constructed, the slope should be restored and enhanced with low-growing fire-resistant native landscaping that is compatible with the conservation of the native plants.

The division of the parcel into three lots will not impact any sensitive habitat areas but may impact a few native plants located on the site. Once coastal development permit applications are submitted potential impacts to the few native plants on the site caused by future construction, and City required fuel modification requirements, can be minimized through the incorporation of the recommendations made by the applicant's botanist into the design of the three future individual residences. Therefore, the Commission finds that the proposed division of land into three separate residential lots is consistent with Section 30240 of the Coastal Act.

G. Local Coastal Program

Section 30604 (a) of the Coastal Act states that:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The City of Los Angeles has not prepared a draft Land Use Plan for this planning subarea. In 1978, the Commission approved a work program for the preparation of Local Coastal Programs in a number of distinct neighborhoods (segments) in the City of Los Angeles. In the Pacific Palisades, issues identified included public recreation, preservation of mountain and hillside lands, grading and geologic stability.

As conditioned, to address the impacts the proposed development will have on coastal views, community character and geologic hazards, approval of the proposed development will not prejudice the City's ability to prepare a certifiable Local Coastal Program. The Commission, therefore, finds that the proposed project is consistent with the provisions of Section 30604 (a) of the Coastal Act. In addition, the Commission finds that the proposed project as a whole, as conditioned, is consistent with all Chapter 3 policies and it is for that reason that the approval won't have any negative impact on the City's development of a Local Coastal Plan.

H. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.